
Local Government Committee

ESSB 6334

Brief Description: Concerning rail dependent uses for purposes of the growth management act and related development regulations.

Sponsors: Senate Committee on Government Operations & Security (originally sponsored by Senators Benton, Chase, Rivers, Cleveland, Warnick, Hobbs, King and Sheldon).

Brief Summary of Engrossed Substitute Bill

- Adds definitions of "freight rail dependent uses" and "short line railroad" to the Growth Management Act, and provides that the terms "rural development" and "rural character" include railroad tracks and freight rail dependent uses.
- Requires the rural element of comprehensive plans to allow freight rail dependent uses in rural areas.
- Authorizes counties and cities to adopt development regulations to assure that agricultural, forest, and mineral resource lands adjacent to short line railroads may be developed for freight rail dependent uses.
- Provides that the transportation element of a comprehensive plan, and development regulations adopted in accordance with the comprehensive plan, may include development of freight rail dependent uses on land adjacent to a short lines railroad.

Hearing Date: 2/23/16

Staff: Michaela Murdock (786-7289).

Background:

Growth Management Act – Introduction.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and

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cities. The GMA also establishes a significantly wider array of planning duties for 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA.

The GMA directs jurisdictions that fully plan under the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, both of which are subject to review and revision requirements prescribed in the GMA.

Planning Goals.

For the purpose of guiding the development of comprehensive plans and development regulations, counties and cities must consider various planning goals set forth in statute. These planning goals include:

- *Urban growth.* Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- *Transportation.* Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
- *Natural resource industries.* Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.
- *Environment.* Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

Comprehensive Plans – Mandatory Elements.

The comprehensive plan of a county or city must consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the plan. The plan must be internally consistent, and all elements must be consistent with a future land use map. Each comprehensive plan must also include a plan, scheme, or design for each of the following elements:

- land use element;
- housing element;
- capital facilities plan element;
- utilities element;
- rural element;
- transportation element;
- economic development element; and
- park and recreation element.

The rural element of a comprehensive plan must allow for rural development, forestry, and agriculture in rural areas, and must provide for a variety for rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. "Rural development" is development that occurs outside an urban growth area, or designated agriculture, forest, or mineral resource land.

The transportation element of a comprehensive plan must implement, and be consistent with, the land use element, and must include sub-elements concerning:

- land use assumptions used in estimating travel;
- estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions;
- facilities and service needs;
- finances;
- intergovernmental coordination efforts;
- demand-management strategies; and
- pedestrian and bicycle components.

The transportation element may also include multimodal transportation improvements or strategies that are made concurrent with development.

Natural Resource Lands.

Counties and cities must designate agricultural lands, forest lands, and mineral resource lands in their comprehensive plans. "Agricultural land" means land: (1) primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products, or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to an excise tax, finfish in upland hatcheries, or livestock; and (2) that has long-term commercial significance for agricultural production. "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, and that has long-term commercial significance. "Minerals" include gravel, sand, and valuable metallic substances.

Each county and city planning under the GMA must adopt, review, and update as necessary development regulations to assure the conservation of designated agriculture, forest, and mineral resource lands. Regulations must ensure that the use of lands adjacent to agriculture, forest, or mineral resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals.

Counties and cities must require that all plats, short plats, development permits, and building permits issued for development activities on or within 500 feet of lands designated as agriculture, forest, or mineral resource lands, contain a notice that the subject property is within or near natural resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.

Railroads.

The Washington State Department of Transportation (WSDOT) is responsible for preparing, periodically updating, and implementing a State Freight Rail Plan for rail coordination, planning, and assistance in accordance with criteria provided in statute. The WSDOT classifies railroad types by function and annual revenue. "Class I" railroads are those railroads with annual revenue exceeding approximately \$433.2 million. There are two Class I railroads in Washington: (1) BNSF Railway Company; and (2) Union Pacific Railroad. There are also approximately 24

short-line, or "Class III," railroads in Washington, meaning railroads with revenues of less than \$34.7 million that are engaged in line-haul transportation.

The United States Surface Transportation Board (STB) also classifies types of railroads by annual carrier operating revenue:

- Class I - \$250 million or more;
- Class II - \$20 million or more; and
- Class III - \$0 to \$20 million.

These amounts were adopted over 25 years ago and the STB uses a formula to adjust them for inflation. For example, today a Class I railroad is a railroad with annual operating revenue of more than approximately \$476 million.

In 1990 the Legislature enacted the Freight Rail Preservation Program (chapter 43, section 4, Laws of 1990), which declared that the state, counties, local communities, railroads, labor, and shippers benefit from the continuation of rail service and should participate in its preservation. In addition to other directives, the WSDOT is required to monitor the status of the state's railroads and preserved rail corridors through the state rail plan, and to seek alternatives to abandonment of railroads where feasible. Additionally, local jurisdictions may implement rail service preservation projects in the absence of state participation.

Summary of Bill:

Rail Uses and Railroads.

Two definitions are added to the Growth Management Act:

1. "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad in a county with a population of 350,000 or more that borders the Columbia River and another state to the south, and is located in Western Washington. Such facilities are both urban and rural development for purposes of the GMA.
2. "Short line railroads" means those railroad lines designated Class II or Class III by the STB.

Additionally, railroad tracks and freight rail dependent uses are included within the definitions of "rural development" and "rural character."

Natural Resource Lands.

Counties and cities are authorized to adopt development regulations to assure that agriculture, forest, and mineral resource lands adjacent to short line railroads may be developed for freight rail dependent uses.

Comprehensive Plans.

The rural element of each comprehensive plan is required to allow freight rail dependent uses in rural areas.

The transportation element of a comprehensive plan may include development of freight rail dependent uses on land adjacent to a short line railroad. Development regulations may be modified to include development of freight rail dependent uses, that do not require urban governmental services in rural lands.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.